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OFFICE OF PETITIONS

In re Application of :  
David B. Krig et al. :  
Application No. 09/316,515 :  
Filed: May 21, 1999 :  
Attorney Docket No. 279.112US1 :

ON PETITION

This is a decision on the petition filed December 12, 2005, to withdraw the holding of abandonment , under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before July 22, 2005 as was required by the Notice of Allowance mailed April 22, 2005. This application therefore became abandoned on July 25, 2005. Accordingly, a Notice of Abandonment was mailed October 13, 2005.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that it was not received. In support, petitioner indicates that a search of the file jacket and the computerized docket system revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice of Allowance would have been entered, had it been received, to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

The issue fee has been applied, per the authorization in the petition, however, since the Issue Fee Transmittal Form (PTOL-85b) has not been supplied, if petitioner desires to have the information normally found thereon printed on the patent, an Issue Fee Transmittal Form should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

This matter is being referred to the Publishing Divison to await remittance of the Issue Fee Transmittal and for processing this application into a Patent.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions